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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

FILED

FEB 28 2011

DAVID BREWS, CLERK
BY *[Signature]* Deputy

**DESOTO COUNTY, MISSISSIPPI BRANCH
OF THE NAACP and THOMAS PLUNKETT,
on behalf of themselves and all others similarly situated**

PLAINTIFFS

VS.

CIVIL ACTION NO.

2:11-CV-40-A-5

**DESOTO COUNTY, MISSISSIPPI BOARD OF SUPERVISORS;
DESOTO COUNTY, MISSISSIPPI DEMOCRATIC PARTY
EXECUTIVE COMMITTEE; DESOTO COUNTY, MISSISSIPPI
REPUBLICAN PARTY EXECUTIVE COMMITTEE; DESOTO
COUNTY, MISSISSIPPI BOARD OF ELECTION COMMISSIONERS;
and DALE THOMPSON, in his official capacity as Circuit Clerk**

DEFENDANTS

COMPLAINT

JURISDICTION

1. This is an action for declaratory and injunctive relief for violation of rights secured to plaintiffs by the United States Constitution. The federal question jurisdiction of this Court is invoked pursuant to the 14th amendment to the United States Constitution, 28 U. S. C. §§ 1331, 1343, 2201, and 2202.

VENUE

2. The venue for this action is in the Delta Division of the United States District Court for the Northern District of Mississippi because the defendants reside within this venue.

PARTIES

3. Plaintiff, the Desoto County, Mississippi Branch of the NAACP ("National Association for the Advancement of Colored People") is a civil rights organization whose membership consists primarily of African American citizens and many registered voters throughout

Desoto County, Mississippi, including Supervisor Districts 1, 2, 3, 4, and 5 in Desoto County, Mississippi.

4. Plaintiff, Thomas Plunkett, is a registered African-American voter in Supervisor District 4 in Desoto County, Mississippi.

5. Plaintiffs bring this action individually and, pursuant to *Fed. R. Civ. P. 23(a), (b)(2), and (c)*, on behalf of themselves and all others similarly situated as a class action with the class defined as “all African-American citizens and voters in Desoto County, Mississippi.”

6. With respect to the class, (a) the class is so numerous that joinder of all members is impracticable, (b) there are questions of law and fact common to the class, (c) the claims of the representative parties are typical of the claims of the class, (d) the representative parties will fairly and adequately protect the interests of the class, and (e) the parties opposing the class have acted and refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive and declaratory relief with respect to the class as a whole.

7. Defendant, the Desoto County, Mississippi Board of Supervisors, is a local governmental body of the State of Mississippi responsible for conducting primary, special, and general elections for the office of supervisor, constable, and justice court judge for Desoto County, Mississippi. This defendant may be served with the process of this Court by serving the Chancery Clerk, W. E. (Sluggo) Davis, whose address is Hernando, Mississippi 38632.

8. Defendant, the Desoto County, Mississippi Democratic Executive Committee (“DCDEC”), is a political party and quasi-governmental entity responsible for conducting primary elections for the Democratic Party in Desoto County, Mississippi. This defendant may be served with the process of this Court by serving its Chairperson, Samuel Williams, whose address is Southaven,

Mississippi 38671.

9. Defendant, the Desoto County, Mississippi Republican Executive Committee (“DCREC”), is a political party and quasi-governmental entity responsible for conducting primary elections for the Republican Party in Desoto County, Mississippi. This defendant may be served with the process of this Court by serving its Chairperson, Kevin Blackwell, Southaven, Mississippi 38672.

10. Defendant, the Desoto County, Mississippi Board of Election Commissioners, is a local governmental body of the State of Mississippi responsible for conducting special and general elections for the office of supervisor, constable, and justice court judge for Desoto County, Mississippi. This defendant may be served with the process of this Court by serving its Chairperson, Paul Beale, whose address is Olive Branch, Mississippi 38654.

11. Defendant, Dale Thompson, is a local governmental official and Circuit Clerk for Desoto County, Mississippi who, pursuant to § 23-15-299, Miss. Code Ann. (1972), is responsible for conducting elections for supervisor, justice court judge, and constable for Desoto County, Mississippi. This defendant’s address is Hernando, Mississippi 38632.

FACTS

12. The population for Desoto County, Mississippi according to the 2010 federal decennial census is 161,252 persons of whom 35,266 (or 21.87%) are African-American. A copy of the U. S. Census Bureau’s 2010 Redistricting Data for Desoto County, Mississippi is attached hereto as Exhibit “A” and incorporated herein.

13. Desoto County, Mississippi is governed by a five (5) member board of supervisors elected from single member districts.

14. Members of the Desoto County, Mississippi Board of Supervisors are elected by

popular vote to four year terms of office.

15. The terms of office for current members of the Desoto County, Mississippi Board of Supervisors expire December 31, 2011.

16. Political party primary nomination elections for the next term of office for members of the Desoto County, Mississippi Board of Supervisors are scheduled for Tuesday, August 2, 2011.

17. The qualification deadline for candidates for supervisor is March 1, 2011.

18. A majority vote is required for political party nomination elections in Mississippi.

19. Political party second primary nomination or run-off elections for the next term of office for members of the Desoto County, Mississippi Board of Supervisors are scheduled for Tuesday, August 23, 2011 if no candidate receives a majority vote during the primary nomination election.

20. A general election and regular special elections are scheduled for Tuesday, November 8, 2011.

21. The ideal population for each supervisor district for Desoto County, Mississippi is 32,250 persons according to the 2010 federal decennial census.

22. The total population for each supervisor district, the black population for each supervisor district, and the percentage of black population for each supervisor district in Desoto County, Mississippi according to the 2010 federal decennial census is as follows:

| <u>Supervisor District</u> | <u>Total Population</u> | <u>Black Population</u> | <u>Black Pop. %</u> |
|----------------------------|-------------------------|-------------------------|---------------------|
| 1 | 44,651 | 10,331 | 23.14% |
| 2 | 30,691 | 5,814 | 18.94% |
| 3 | 27,008 | 8,614 | 31.89% |

| | | | |
|---|--------|-------|--------|
| 4 | 20,393 | 4,225 | 20.72% |
| 5 | 38,509 | 6,282 | 16.31% |

23. The supervisor districts for Desoto County, Mississippi have a total population deviation of 24,258 persons according to the 2010 federal decennial census with a maximum deviation percentage of 75.22%.

24. The Desoto County, Mississippi Branch of the NAACP, is a civil rights organization whose members include and which represents citizens and registered voters Supervisor Districts 1 and 5 which are overpopulated and under represented, and the plaintiff is aggrieved by that under representation.

25. Plaintiff, Thomas Plunkett, is a citizen and voter in Supervisor District 4, which has a substantial black population, and plaintiff, Thomas Plunkett, does not want the black voting strength in Desoto County, Mississippi diluted.

26. Desoto County, Mississippi is a jurisdiction covered by the preclearance requirements of § 5 of the Voting Rights Act of 1975, as amended and extended, 42 U. S. C. § 1973c, that has a long and official history of racial discrimination against African-American citizens and voters that has affected their right to register, vote, and participate in the political process.

27. Voting in elections in Desoto County, Mississippi is racially polarized.

28. White bloc voting in Desoto County, Mississippi is statistically significant.

29. The Desoto County, Mississippi Board of Supervisors has failed to redistrict the county's supervisor districts to comply with the one-person one-vote principle of the Equal Protection Clause of the 14th amendment to the United States Constitution and obtain preclearance of any new redistricting plan prior to the March 1, 2011 candidate qualification deadline.

30. The present supervisor districts are grossly malapportioned.

31. The plaintiffs would be aggrieved if elections are held under the grossly malapportioned existing apportionment scheme with the candidates elected being allowed to hold office for the next four years.

32. African-American voters in Desoto County, Mississippi are politically cohesive in Mississippi.

33. The African-American population in Desoto County, Mississippi is geographically large and insular such that several black majority supervisor districts could be maintained or created.

34. African-American citizens and voters in Desoto County, Mississippi suffer from the lingering effects of gross disparities in socioeconomic factors that adversely affect their ability to effectively participate in the political process and elect candidates of their choice to elective office.

35. African-American voters in Desoto County, Mississippi have been denied equal opportunity to participate in the political process and to elect representatives of their choice under the totality of the circumstances.

36. All of the actions and inactions of the defendants, as mentioned above, have been intentional and deliberate or have resulted in impermissible discrimination against the plaintiffs.

37. As a proximate results of the actions and inactions of the defendants, as mentioned above, the plaintiffs have suffered a violation of their constitutional and statutory rights.

CAUSE OF ACTION

14th AMENDMENT EQUAL PROTECTION ONE PERSON ONE VOTE

38. The existing redistricting plan for Desoto County, Mississippi is unconstitutionally malapportioned and violate rights secured to plaintiffs by the Equal Protection Clause of the 14th

Amendment to the United States Constitution and 42 U. S. C. § 1983.

CAUSATION, INJURY, AND REMEDY

39. As a proximate result of the actions and inactions of the defendants, as mentioned above, plaintiffs have suffered a violation of their federal constitutional rights, and plaintiffs have incurred expenses, attorney fees, and court costs.

EQUITABLE RELIEF

40. Plaintiffs request the a declaratory judgment, pursuant to 28 U. S. C. §§ 2201 and 2202, that the defendants have violated rights secured to plaintiffs by the 14th amendment to the United States Constitution.

41. And, plaintiffs request an award of court costs and attorney fees and litigation expenses pursuant to 42 U. S. C. §§ 1973l(e) and 1988.

WHEREFORE, PREMISES CONSIDERED, plaintiffs respectfully request the following legal and equitable relief:

a. A declaratory judgment, pursuant to 28 U. S. C. §§ 2201 and 2202, that the present apportionment scheme and the actions and inactions of the defendants violate rights secured to plaintiffs by the 14th amendment to the United States Constitution;

b. A temporary restraining order, preliminary injunction, and/or a permanent injunction enjoining the defendants from conducting elections under the existing redistricting plans for supervisor in Desoto County, Mississippi;

c. A temporary restraining order and a preliminary injunction, enjoining the candidate qualification deadline for March 1, 2011 for the office of supervisor in Desoto County, Mississippi for a short period of time in order to give the Desoto County, Mississippi Board of

Supervisors an opportunity to redistrict the supervisor districts and obtain preclearance of the redistricting plan;


d. A temporary restraining order, preliminary injunction, and/or a permanent injunction requiring that any new redistricting plan for supervisors for Desoto County, Mississippi comply with the 14th and 15th amendments to the United States Constitution, 42 U. S. C. § 1983, and §§ 2 and 5 of the Voting Rights Act of 1965, as amended and extended, 42 U. S. C. §§ 1973 and 1973c;

e. Award plaintiffs court costs and a reasonable attorney's fee pursuant to 42 U. S. C. §§ 1973l(e), and 1988; and

f. Grant plaintiffs general relief.

This the 28th day of February, 2011.

Respectfully submitted,
DESOTO COUNTY, MISSISSIPPI BRANCH
OF THE NAACP and THOMAS PLUNKETT, on behalf of
themselves and all others similarly situated



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| District | Total Pop | Black | % Black | Asian | % Asian | Hispanic | % Hisp | NHisp | VAP | VAP Black | % VAP Black | VAP Asian | % VAP Asian | % VAP Hispanic | VAP White | % VAP White | Deviation % |
|-----------|-----------|-------|---------|-------|---------|----------|--------|-------|--------|-----------|-------------|-----------|-------------|----------------|-----------|-------------|-------------|
| Covington | 19568 | 6825 | | | | | | | 14481 | 4646 | | | | | | | |
| 1 | 4405 | 466 | 10.58 | 12 | .27 | 79 | 1.79 | 3804 | 3310 | 317 | 9.58 | 10 | .3 | 49 | 2918 | 88.16 | 12.54 |
| 2 | 4054 | 228 | 5.62 | 7 | .17 | 92 | 2.27 | 3688 | 3040 | 153 | 5.03 | 5 | .16 | 51 | 2807 | 92.34 | 3.58 |
| 3 | 3760 | 1832 | 48.72 | 2 | .05 | 102 | 2.71 | 1808 | 2719 | 1192 | 43.84 | 2 | .07 | 69 | 1452 | 53.4 | -3.93 |
| 4 | 3751 | 1920 | 51.19 | 16 | .43 | 45 | 1.2 | 1756 | 2810 | 1341 | 47.72 | 6 | .21 | 35 | 1415 | 50.36 | -4.16 |
| 5 | 3598 | 2379 | 66.12 | 6 | .17 | 51 | 1.42 | 1146 | 2602 | 1643 | 63.14 | 5 | .19 | 33 | 913 | 35.09 | -8.07 |
| DeSoto | 161252 | 35266 | | | | | | | 115627 | 23002 | | | | | | | |
| 1 | 44651 | 10331 | 23.14 | 615 | 1.38 | 1942 | 4.35 | 31222 | 31835 | 6843 | 21.5 | 443 | 1.39 | 1137 | 23195 | 72.86 | 38.45 |
| 2 | 30691 | 5814 | 18.94 | 574 | 1.87 | 1342 | 4.37 | 22489 | 22156 | 3655 | 16.5 | 402 | 1.81 | 851 | 17002 | 76.74 | -4.83 |
| 3 | 27008 | 8614 | 31.89 | 274 | 1.01 | 2202 | 8.15 | 15405 | 18576 | 5331 | 28.7 | 222 | 1.2 | 1297 | 11501 | 61.91 | -16.25 |
| 4 | 20393 | 4225 | 20.72 | 159 | .78 | 1462 | 7.17 | 14212 | 15049 | 2797 | 18.59 | 118 | .78 | 905 | 11076 | 73.6 | -36.77 |
| 5 | 38509 | 6282 | 16.31 | 411 | 1.07 | 1138 | 2.96 | 30225 | 28011 | 4376 | 15.62 | 289 | 1.03 | 717 | 22399 | 79.97 | 19.41 |
| Forrest | 74934 | 27082 | | | | | | | 57231 | 19152 | | | | | | | |
| 1 | 14368 | 4755 | 33.09 | 102 | .71 | 390 | 2.71 | 8898 | 11222 | 3231 | 28.79 | 85 | .76 | 296 | 7485 | 66.7 | -4.13 |
| 2 | 12655 | 7617 | 60.19 | 38 | .3 | 548 | 4.33 | 4307 | 9602 | 5512 | 57.4 | 33 | .34 | 361 | 3629 | 37.79 | -15.56 |
| 3 | 17789 | 1571 | 8.83 | 95 | .53 | 450 | 2.53 | 15425 | 12964 | 1059 | 8.17 | 66 | .51 | 258 | 11449 | 88.31 | 18.7 |
| 4 | 14114 | 9107 | 64.52 | 38 | .27 | 806 | 5.71 | 4035 | 10098 | 6141 | 60.81 | 36 | .36 | 538 | 3312 | 32.8 | -5.83 |
| 5 | 16008 | 4032 | 25.19 | 225 | 1.41 | 443 | 2.77 | 11101 | 13345 | 3209 | 24.05 | 202 | 1.51 | 375 | 9419 | 70.58 | 6.81 |
| Franklin | 8118 | 2791 | | | | | | | 6075 | 1948 | | | | | | | |
| 1 | 1566 | 959 | 61.24 | 0 | 0 | 2 | .13 | 601 | 1091 | 639 | 58.57 | 0 | 0 | 2 | 448 | 41.06 | -3.57 |
| 2 | 1654 | 483 | 29.2 | 0 | 0 | 10 | .6 | 1146 | 1290 | 354 | 27.44 | 0 | 0 | 7 | 918 | 71.16 | 1.85 |
| 3 | 1674 | 945 | 56.45 | 2 | .12 | 16 | .96 | 698 | 1205 | 669 | 55.52 | 2 | .17 | 12 | 518 | 42.99 | 3.08 |
| 4 | 1646 | 261 | 15.86 | 1 | .06 | 3 | .18 | 1370 | 1267 | 182 | 14.36 | 1 | .08 | 3 | 1073 | 84.69 | 1.35 |
| 5 | 1578 | 143 | 9.06 | 2 | .13 | 16 | 1.01 | 1415 | 1222 | 104 | 8.51 | 2 | .16 | 11 | 1104 | 90.34 | -2.83 |
| George | 22578 | 1829 | | | | | | | 16518 | 1320 | | | | | | | |
| 1 | 4388 | 73 | 1.66 | 2 | .05 | 103 | 2.35 | 4160 | 3188 | 52 | 1.63 | 2 | .06 | 72 | 3022 | 94.79 | -2.83 |
| 2 | 5003 | 51 | 1.02 | 7 | .14 | 123 | 2.46 | 4779 | 3642 | 37 | 1.02 | 4 | .11 | 84 | 3488 | 95.77 | 10.78 |
| 3 | 4739 | 450 | 9.5 | 16 | .34 | 62 | 1.31 | 4153 | 3424 | 323 | 9.43 | 10 | .29 | 36 | 3024 | 88.32 | 4.94 |
| 4 | 4544 | 562 | 12.37 | 16 | .35 | 98 | 2.16 | 3819 | 3428 | 439 | 12.81 | 10 | .29 | 66 | 2881 | 84.04 | .62 |
| 5 | 3904 | 693 | 17.75 | 6 | .15 | 67 | 1.72 | 3098 | 2836 | 469 | 16.54 | 5 | .18 | 34 | 2305 | 81.28 | -13.55 |